

8



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/488,183	01/20/2000	Paul Entwistle	991025	4053

7590 02/26/2004

Mark G Kachigian  
Head Johnson & Kachigian  
228 West 17th Place  
Tulsa, OK 74119

EXAMINER

CORBETT, MITCHELL

ART UNIT	PAPER NUMBER
----------	--------------

2614

DATE MAILED: 02/26/2004

5

Please find below and/or attached an Office communication concerning this application or proceeding.

8

## Office Action Summary

Application No.

09/488,183

Applicant(s)

ENTWISTLE, PAUL

Examiner

Mitchell J Corbett

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. Claim 4 recites the limitation "the said signal" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim. It is unclear whether the phrase "the said signal" refers back to "a first signal" (line 3 of claim 3), or "a second signal" (line 6 of claim 3), or to both.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Hassell et al. (Hassell) (US 2003/015477 A1).

Considering claims 1 and 7, Hassell discloses a television data receiving apparatus (Set-Top Box 28, fig. 2) which allows the display of a series of programs at the location where data is received (see Television 36 and Set-Top Box 28, fig. 2, and par. 8); means for receiving data for generating an electronic program guide (EPG) at said location (Set-Top Box 28) which indicates the

Art Unit: 2614

schedule of programs (par. 17) and other information (see weather information, web links, etc, part. 17) which can be displayed (par. 7 and 18); means whereby the display of a program can be delayed (by storing or recording a program and subsequent programs for later playback) and data received for subsequent programs stored in a memory means (Digital Storage Device 31) for selective display at a later time (par. 20-21); said EPG is adjusted (i.e., since figure 5b shows recorded programs **only** in row 145 (channel 2) of the EPG, relative to other available broadcast programs (channels 3,4,5) for viewing, the time slots (65) of fig. 5b must represent adjusted playback times for the recorded programs on channel 2 and the same time slots (65) represent the current and future times for the available programs on channels 3, 4 and 5.) in response to the delay in display (local or otherwise) of subsequent programs (see row 145, fig. 5b and par. 37-38) to synchronize with the display of said programs and associated delay.

As for claim 2, Hassell discloses said television data receiving apparatus (Set-Top Box 28) wherein the schedule generated for the EPG is linked to the use of the local memory at said location and display (Digital Storage Device 31, fig. 2, and par. 20-21) to automatically reflect scheduling adjustments cause the time shifting (e.g., the time slots 65 for recorded programs in row 145, fig. 5b) of broadcast programs by the user selected to delay display of said program (par. 37-38).

Art Unit: 2614

As for claim 3, Hassell discloses said television data receiving apparatus (Set-Top Box 28) wherein the EPG means receives a first signal to indicate the commence of a delay in broadcast of program data and commencement of storage of the same in memory (i.e., a "record" command, see Grid 60, fig. 5B and par. 42-43), and a second signal to indicate when the viewing of said data recommences (i.e., a "play" command, par. 40) and adjusts the EPG to take into account the time period between said first and second signals (par. 37-38).

As for claim 4, Hassell discloses said television data receiving apparatus (Set-Top Box 28) wherein said signals are received by the means for generating the EPG (par. 40, and 42-43) and indicate the particular program and channel, which has been selectively delayed by the user (see Program 1, etc. and Channel 2 of row 145, fig. 5b).

As for claim 5, Hassell discloses said television data receiving apparatus (Set-Top Box 28) wherein the EPG is adjusted (in fig. 5b, the time slots (65) of fig. 5b represent adjusted playback times for the recorded programs on channel 2 and the same time slots (65) represent the current and future times for the available programs on channels 3, 4 and 5) by generating an additional display feature which indicates the actual viewing schedule of the user, including any delays in viewing of programs (par. 37-38).

Art Unit: 2614

As for claim 6, Hassell discloses said television data receiving apparatus wherein the EPG is displayed as a grid (grid 60, fig. 5b, and par. 30) with a number of rows (rows 141 or 145, fig. 5b, and par. 30), each indicating a channel and located with respect to a time band (see channel and time band, fig. 5b, and par. 30-31), and if a selected delay of a program is made by the user, and additional row is generated on the EPG (row 145, fig. 5b) to indicate the real-time viewing schedule for the user at the apparatus location, including the delay (par. 37-38).

### ***Conclusion***

4. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

on \_\_\_\_\_  
(Date)

Typed or printed name of person signing this certificate:

---

Art Unit: 2614

Signature: \_\_\_\_\_

**Certificate of Transmission**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) \_\_\_\_\_ - \_\_\_\_\_ on \_\_\_\_\_.  
(Date)

Typed or printed name of person signing this certificate:

\_\_\_\_\_

Signature: \_\_\_\_\_

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitchell J Corbett whose telephone number is (703) 305-8982. The examiner can normally be reached on Monday-Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (703) 305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2614

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mitchell Corbett  
Patent Examiner  
Art Unit 2614

MJC

  
CHRIS GRANT  
PRIMARY EXAMINER